

REMARKS

Claims 1-39 are pending and at issue in the application with claims 1, 20, 24 and 35 being the independent claims. Claims 1, 7, 8 10-14 and 35 have been amended. The applicants believe no additional fee is due. However, the commissioner is hereby authorized to charge any deficiency in the amount enclosed or any additional fees which may be required under 37 C.F.R. §§1.16 or 1.17 to Deposit Account No. 13-2855.

The applicants respectfully traverse the rejections of claims 1, 4-11, 14-18, 35, 36 and 38 under 35 U.S.C. §102(e) as anticipated by Bjornson (U.S. Patent No. 6,505,145), the rejection of claims 2, 3 and 39 as obvious over Bjornson in view of Agrusa et al. (U.S. Publication No. 2004/0024891), the rejection of claims 12, 13 and 37 as obvious over Bjornson in view of Keeler et al. (U.S. Patent 5,386,373), and the rejection of claim 19 as obvious over Agrusa et al. in view of Funkhouser (U.S. Patent 5,784,570). Reconsideration and withdrawal of these rejections is respectfully requested.

Each of claims 1-19 and 35-39 recites a data processing system for use with a process control system having a data historian communicatively coupled to a server, wherein the server is adapted to execute a plurality of data processing applications, to receive process control data from one or more process plants via an open network, to use one or more of the plurality of data processing applications to each generate analysis results and to send the analysis results to a first and a second plant or to a remote user interface via the open network. None of Bjornson, Agrusa et al., Keeler et al. or Funkhouser discloses multiple data processing applications and using one or more of the data processing applications to generate analysis results for one or more process plants or for a remote user interface via an open network. As a result, Bjornson cannot anticipate any of claims 1, 4-11, 14-18, 35, 36 and 38 and no combination of Bjornson with Agrusa et al., Keeler et al. and Funkhouser can render any of claims 2, 3, 12, 13, 19-34, 37 and 39 obvious.

While Bjornson discloses a plant reliability system (identified by the Office action as being the data processing application) which may be used by different customers, Bjornson does not disclose a plurality of data processing applications, such that any of the data processing applications may be used to generate and send analysis results to multiple plants or to a remote user interface. The Bjornson system simply provides a single plant reliability system for analyzing failure data from a user. Thus, while the Bjornson system includes a

plant reliability system that analyzes failure data from a user, the plant reliability system is only one application, and not a plurality of data processing applications, each of which may generate and send analysis results to one or more process plants. Instead, the plant reliability system is the only application the Bjornson system provides to a plant.

By contrast, the systems provided by claims 1-19 and 35-39 are systems which send data from one or more different process plants to a plurality of data processing applications, one or more of which may operate on (process) the data from the plant(s) to, for example, generate reports, detect problems within the plants, etc. The results of the analysis(es) generated from one or more data applications are then sent back to the plants or to a remote user interface. The claimed system and method are useful in enabling multiple different plants to have access to the data processing capabilities of multiple, various data processing applications without having to purchase and maintain each application. Instead, the various different plants can separately send the data to various different data processing applications, as needed, over an available open network, such as the Internet, and can receive the results of one or more of the various data processing applications over the same open network, thereby eliminating the need to purchase each data processing application and even the need to purchase or dedicate computer hardware within the process plant for executing the data processing applications. Accordingly, process plants are provided with the benefit of various data applications that may not otherwise be available.

Simply put, Bjornson is not concerned with or directed to providing a variety of data processing applications or resources to different plants or user interfaces. Instead, Bjornson is merely concerned with providing just the plant reliability system in order to generate equipment proposals to fulfill a plant's needs. (See e.g., column 20, lines 24-34). Accordingly, Bjornson is primarily concerned with using the plant reliability system to analyze equipment failure data with the end goal of selling the plant more equipment when needed, as opposed to offering a variety of data applications to one or more process plants. It is clear from the context of Bjornson that plurality of data applications are not offered. As such, Bjornson fails to disclose or suggest each of the elements of claims 1-19 and 35-39.

The applicants respectfully disagree with the Office action's contention that Bjornson discloses elements of claims 1 and 35 at column 3, lines 3-14 thereof. In fact, column 3, lines 3-14 merely discloses an area performing seal analysis after a failure and an area performing

a root cause analysis to assign an underlying cause of the failure. This portion of Bjornson does not state that the plant reliability system is communicatively coupled to the Internet, that the plant reliability system resides on a primary server and the plant reliability system is the data processing application. Still further, this portion of Bjornson does not disclose or suggest a primary server in communication with an open network. For these additional reasons, Bjornson cannot anticipate or render obvious any of claims 1-19 and 35-39.

The applicants further respectfully traverse the rejections of claims 5 and 6. The Office action rejects claim 5 as anticipated by Bjornson, but merely asserts that Bjornson discloses process plants conducting transactions with the plant reliability system. The Office action does not point to specific disclosure within Bjornson but rather states that "it is deemed obvious" that separate process plants are located at different geographic locations. Likewise, the Office action rejects claim 6 as anticipated by Bjornson, but merely asserts that Bjornson discloses process plants conducting business transactions remotely. Again, the Office action does not point to specific disclosure within Bjornson but rather states that "it is deemed obvious" that separate process plants are located separately and can be of different business entities. Accordingly, Bjornson does not specifically disclose the elements of claims 5 and 6, that therefore cannot anticipate claims 5 and 6. In fact, it appears the Office action attempts to reject claims 5 and 6 as obvious over Bjornson (i.e., "it is deemed obvious"), but nonetheless does not present a *prima facie* case of obviousness. See MPEP 2143. Accordingly, for these additional reasons none of claims 5 and 6 are anticipated by, or obvious over, Bjornson.

The applications respectfully disagree with the Office action's contention that Bjornson discloses the additional elements of claims 10, 11 and 36 at column 2, lines 8-21 thereof. In fact, column 2, lines 8-21 merely discloses choosing a seal performance metric, which may be a government regulation to limit emissions from the seal. This portion of Bjornson does not state that plant emissions is one of the reports generated by the Bjornson system or that reports are submitted to a governmental authority. Simply put, a seal is not a plant, choosing a seal performance metric is not generating a plant emissions report, and choosing a governmental regulation to limit seal emissions as a seal performance metric is not submitting a plant emissions report to a governmental authority. For these additional reasons, Bjornson cannot anticipate claims 10, 11 and 36.

In addition, the applicants respectfully disagree with the Office action's contention that Bjornson discloses the additional elements of claims 16 and 17 in Fig. 1 and column 20, lines 3-14 thereof. In fact, Fig. 1 merely discloses the plant reliability system which, as maintained by the Office action, is located remotely from the process plants, but Fig. 1 does not disclose the use of Internet devices, much less an internet-enabled field device, an internet-enabled field device interface or a data concentration node. Accordingly, Fig. 1 cannot disclose or suggest a process plant that includes an internet-enabled field device, an internet-enabled field device interface or a data concentration node. Column 20, lines 3-14 merely discloses that consultants may access the plant reliability system over the Internet. This cited portion of Bjornson does not state that an internet-enabled field device, an internet-enabled field device interface or a data concentration node of a process plant includes an embedded data server and an embedded data historian. Accordingly, neither Fig. 1 nor column 20, lines 3-14 disclose or suggest an internet-enabled field device, an internet-enabled field device interface or a data concentration node that includes an embedded data server and an embedded data historian. For these additional reasons, Bjornson cannot anticipate either of claims 16 or 17.

Still further, each of Agrusa et al., Keeler et al. and Funkhouser fails to provide the missing disclosure of Bjornson, nor has the Office action cited them for this purpose. In fact, while Keeler et al. generally discloses an emissions monitoring system, each of Agrusa et al., Keeler et al. and Funkhouser fail to disclose or suggest sending data from one or more process plants over an open network to be used by one or more of a plurality of data processing applications.

It is clear that the prior art must make a suggestion of or provide an incentive for a claimed combination of elements to establish a prima facie case of obviousness. See, *In re Oetiker*, 24 U.S.P.Q.2d 1443, 1446 (Fed. Cir. 1992); *Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. 1985). This principle holds true even if the applied art could be modified to produce the invention recited by the pending claims. See, *In re Mills*, 16 U.S.P.Q.2d 1430, 1432 (Fed. Cir. 1990); *In re Gordon*, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984) ("The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.") Because each of Bjornson, Agrusa et al., Keeler et al. and Funkhouser fails to disclose or provide any motivation for providing multiple data processing applications for analyzing process control

data from one or more process plants and providing the analysis results generated from each of one or more of the data processing applications to the process plant or to a remote user interface, it follows that no combination of these documents can render any of claims 1-19 or 35-39 obvious.

Moreover, applicants respectfully traverse the rejection of each of dependent claims 12 and 37 as obvious over Bjornson in view of Keeler et al. for the additional reason that each of these claims recites one or more additional elements (besides those discussed above) which are not present in either Bjornson or Keeler et al. In particular, claim 12 recites a data processing application that performs one of a plant emissions minimization and a plant emissions optimization using one of a shared vector gradient technique, a neural net technique, and a Fibonacci search technique. As acknowledged by the Office action, Bjornson does not disclose any of the recited minimization or optimization techniques. While Keeler et al. discloses a neural network applied to a sensor system, Keeler et al. does not disclose a data processing application that performs plant emissions minimization or optimization based on this neural network. Instead, Keeler et al. merely discloses using the neural network to train and optimize a virtual sensor associated with a plant emissions system. Optimizing a sensor is different than performing plant emissions minimization or optimization, as optimizing a sensor entails calibrating a sensor to a particular threshold, while optimizing emission may require changing plant variables to effect the emissions output of the plant.

Moreover, claim 37 recites a remote user interface that is associated with a regulatory authority. Neither Bjornson nor Keeler et al. discloses a remote user interface associated with a regulatory authority. As acknowledged by the Office action, Bjornson does not disclose a remote user interface in any manner. While Keeler et al. discloses an emissions monitoring system, Keeler et al. does not disclose the use of a remote user interface associated with a regulatory agency. Moreover, the primary concern of Keeler et al. is to provide an alarm based on whether certain monitored emissions parameters are off target. Thus, while Keeler et al. discusses that emissions monitoring is important to comply with an environmental agency, Keeler provides no disclosure or suggestion of using a remote user interface associated with a regulatory agency to provide such monitoring by the government agency.

Because neither Bjornson nor Keeler et al. discloses these additional elements of claims 12 and 37, no combination of Bjornson and Keeler et al. can render any of these claims obvious.

The applicants respectfully traverse the rejection of claims 20-34 as obvious over Bjornson in view of Agrusa et al. Reconsideration and withdrawal of these rejections is respectfully requested.

Each of claims 20-23 recites a data processing system for use with a process control system having a plurality of redundant data historians communicatively coupled to each other and to a cluster of redundant servers. Each of claims 24-34 recites a method of acquiring, analyzing and reporting process plant data including storing analysis results in a plurality of redundant data historians that are communicatively coupled to a cluster of redundant servers.

Although the Office action generally addresses independent claims 20 and 24, the Office action does not address all of the claim recitations at issue in independent claims 20 and 24, or that all of the claim recitations of independent claims 20 and 24 are disclosed in Bjornson or Agrusa et al., and there does not appear to be such disclosure in either Bjornson or Agrusa et al., whether taken alone or in combination. In particular, independent claim 20 recites a plurality a plurality of redundant data historians and independent claim 24 recites storing analysis results in a plurality of redundant data historians. Neither Bjornson nor Agrusa et al. disclose a plurality of redundant data historians. As acknowledged in the Office action, Bjornson does not disclose methods of backing up information in time of failure. Although the Office action asserts that Agrusa et al discloses primary and secondary servers, the Office action does not maintain that either Bjornson or Agrusa et al. disclose or suggest a plurality of redundant data historians. It is respectfully submitted that the Office bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of obviousness, and that the Office has not met that burden in the Office action.

Because the Office action has not met the initial burden of presenting a *prima facie* case of obviousness, the present rejection of claims 20-34 cannot be maintained. Further, because neither Bjornson nor Agrusa et al. disclose all of the elements of claims 20-34, no combination of Bjornson and Agrusa et al. can render any of these claims obvious.

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Accordingly, the applicants respectfully submit that independent claims 1, 20, 24 and 35 are in allowable form. Further dependent claims 2-19, 21-23, 25-34 and 36-39 which are dependent on the aforementioned independent claims are also submitted to be in allowable form. For the foregoing reasons, reconsideration and withdrawal of the rejections of the claims and allowance thereof are respectfully requested. Should the examiner wish to discuss the foregoing, or any matter of form, in an effort to advance this application towards allowance, the examiner is urged to telephone the undersigned at the indicated number.

Respectfully submitted,

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